

BOARD FOR CONTRACTORS BOARD MEETING

MINUTES

The Board for Contractors met on Wednesday, March 5, 2003 at the Department of Professional and Occupational Regulation (DPOR), 3600 West Broad Street, Richmond, Virginia. The members indicated below were present. Each of the other members present was qualified to vote, except where a specific reason for disqualification is stated. There are 13 members on this board, in which seven constitutes a quorum pursuant to §54-1-1102.

Mark D. Kinser, Chairman
Robert O. Burch, Jr.
Charles W. Falwell
David O. Harris, Sr.
Kenneth W. Hart
Jim Hollar
Robert M. Kirby
Robert McDowell
John Neff
Jennifer Parrish
William A. Paulette
Michael D. Redifer

Board member Anthony R. Orange was not present.

The following members of DPOR staff were also present during some or all of the meeting:

Louise Fontaine Ware, Director
Sandra Ryals, Chief Deputy Director
Karen O'Neal, Deputy Director
Eric L. Olson, Assistant Director, Contractors
James L. Guffey, Deputy Director for Enforcement
Sheila Watkins, Administrative Assistant, Contractors
Bonnie S. Rhea Adams, Assistant Director, Post Adjudication
Jennifer Kazzie, Legal Assistant, Enforcement
Vickie Traylor, Legal Assistant, Recovery Fund

Others in attendance for all or part of the meeting:

Steve Arthur, Deputy Director of Finance and Administration

Chairman Robert Kinser called the meeting to order at 9:08 a.m.

**Tab 1 – Call
To Order**

Chairman Kinser declared that a quorum of board members were in attendance.

**Tab 2 –
Determination
Quorum**

A motion was made by Mr. Neff and seconded by Mr. Hart that the agenda be approved. The motion passed unanimously. Members voting "Yes" were Mr. Burch, Mr. Falwell, Mr. Harris, Mr. Hart, Mr. Hollar, Mr. Kinser, Mr. Kirby, Mr. McDowell, Mr. Neff, Ms. Parrish, Mr. Paulette and Mr. Redifer. There were no negative votes.

**Tab 3 –
Approval of
the Agenda**

A motion was made by Mr. Neff and seconded by Mr. Hart that the minutes of the meeting held January 22, 2003 and the IFF meetings held February 4, 2003, be approved.

**Tab 4 –
Approval of**

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The motion passed with a vote of "11 yes" and "1 member abstained" Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer Mr McDowell abstained

**Minutes
Board
1/22/03 and
IFF 2/4/03**

Chairman Kinser asked the members of the public whether they had any comments Mr David Gregory of Virginia Beach, Virginia addressed the board and shared that he had a letter to submit to the Board for consideration There were no other comments

**Tab 5 -
Comment
Period**

In the matter of File Number 2000-01841, Paul A Curtis, t/a Dan Valley Construction, the board reviewed the Consent Order # 2003-0092 Paul Curtis (respondent) was represented by Mr John Perry Mr Perry appeared before the board and voiced his agreement with the hearing officer's recommendation/consent order He indicated he appeared to answer any questions the Board might have There were no questions asked Upon a motion by Mr Falwell and seconded by Mr Neff, the board accepted the consent order finding Mr Curtis' actions (Count 1) are a violation of the Board's 1999 Regulation 18 VAC 50-22-260 (B) (6) filing of charges, prohibited acts (misconduct in the practice of contracting) The Board imposed a monetary penalty of \$1,000 for this violation The Board also imposed a two year suspension of Mr Curtis' license effective March 5, 2003 The suspension will be stayed provided Mr Paul A Curtis successfully completed remedial education by attending the Board-approved course and passing the examination by September 2003 Mr Curtis must agree to pay the monetary penalty within thirty days of the effective date of the consent order The motion passed with a vote of "10 yes" Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, Mr Paulette and Mr Redifer The vote was unanimous Ms Parrish was recused and did not vote

**Tab 7(2) -
File 2000-
01841**

In the matter of File Number 2003-00863, Larry Meyers, (Complainant) v. Turzac Construction Corporation, Consent Order #2003-0107, the board reviewed the record which consisted of the Consent Order # 2003-0107 Mr Hughes (respondent) attended the meeting and addressed the board Board members had questions about Mr Hughes having not paid the Recovery Fund back prior to entering into a consent order when he was the DE, RM and QI for the company After discussion Mr Redifer made a motion to defer the case back to an IFF Mr McDowell seconded Mr Redifer withdrew the motion Ms Parrish then offered a motion to remand the case to the next meeting and to gather all facts before approval of the Consent Order Mr Neff seconded the motion The motion passed with a unanimous vote Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Ms Parrish, Mr Paulette and Mr Redifer There were no negative votes

**Tab 7(12) -
File 2003-
00863**

In the matter of File Number 2000-01795, Darrell L Rutherford (Respondent) t/a Darrell Rutherford Builders, Disciplinary File; (this case was continued form 1/22/2003) the board reviewed the record, which consisted of the disciplinary file, transcript and exhibits from the IFF, and the presiding board member's summary Mr Rutherford appeared before the board voicing his disagreement with the hearing officer's recommendation Neither Rutherford nor any representative of the company made an appearance at the IFF Mr Burch the hearing officer recused himself and did not vote Upon a motion made by Ms Parrish and seconded by Mr McDowell, the board found clear and convincing evidence that Darrell Rutherford Builders violated the following sections of its 1999 Regulations 18 VAC 50-22-260.B.6 (Count I) and imposes a fine of \$750. failure to make warranty repairs within twenty-one months of being

**Tab 6(1) -
File 2000-
01795**

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notified is misconduct. The motion passed with a vote of "10 yes" and "1 no". Members voting "Yes" were Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer. The negative vote was cast by Mr Falwell.

In the matter of File Number 2003-01503, Ronald Lee Lumsden Application of Tradesman License, Licensing File, the board reviewed the record, which consisted of the licensing file, transcript and exhibits from the IFF, and the presiding board member's summary. Mr Paulette recused himself and did not vote. Mr Lumsden appeared before the board and at the IFF meeting. He addressed the Board and voiced his agreement with the recommendation. Mr Neff offered a motion to adopt the recommendation and grant Mr Lumsden his Tradesman license. Mr Falwell seconded it. The motion passed with a vote of "10 yes" and "1 no". Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr Neff, Ms Parrish, and Mr Redifer. The negative vote was cast by Mr McDowell.

**Tab 6(7) -
File 2001-
01180**

In the matter of File Number 2003-01142, John Tatum Application for Class C Contractor's License, Licensing File, the board reviewed the record, which consisted of the licensing file, transcript and exhibits from the IFF, and the presiding board member's summary. Mr Kirby recused himself and did not vote. Mr John Tatum, applicant and Mr Elliott Bender, Esquire appeared at the IFF meeting. Mr Elliott Bender, Esquire appeared at the Board meeting and addressed the Board on his client's behalf. He indicated agreement with the recommendation. On a motion by Mr Falwell, seconded by Mr Hart, the board accepted the summary and recommendation granting Mr John Tatum t/a Gutter Solutions a license. The motion passed with a vote of "10 yes" and "1 no". Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer. The negative vote was cast by Mr McDowell.

**Tab 6(20) -
File
2003-01142**

In the matter of File Number 2003-01504, Kevin and Wendy Lewis, t/a Lewis Builders Application for Class A Contractor's License, Licensing File, the board reviewed the record, which consisted of the licensing application file, transcript and exhibits from the IFF, and the presiding board member's summary. Kevin Lewis (Applicant) appeared before the board and he also participated in the IFF meeting. Ms Wendy Lewis also attended the IFF. Mr Lewis addressed the Board at the meeting and expressed his agreement with the recommendation. Mr Paulette recused himself and did not vote. Ms Parrish asked Mr Lewis if he is currently a contractor and he replied "yes, a class C". She also asked him if he had enough assets to qualify for a Class A contractor. He replied, "yes, I have a net worth of \$59,000". Mr McDowell asked Mr Lewis if he has a net worth of \$59,000 why doesn't he pay the \$13,000? he owes the IRS instead of making monthly installments and paying interest? Mr Lewis replied, "he's making installment payments of \$300 per month and has been since September of 2002 and he is paying 6% interest". Upon a motion by Mr Neff, seconded by Mr Burch, the board voted to accept the recommendation and grant Mr Lewis a Class A Contractor's license. The motion passed with a vote of "10 yes and 1 no". Those members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, and Mr Redifer. The negative vote was cast by Ms Parrish.

**Tab 6(8) -
File
2003-01504**

In the matter of File Number 2003-01573, Walter Lee Menefee, Sr. t/a Smokey's Masonry Application for Class C Contractor's License, Licensing File, the board reviewed the record, which consisted of the licensing file, transcript and exhibits from the IFF, and the presiding board member's summary. Mr Walter Lee Menefee, Sr.

**Tab 6(10) -
File
2003-01573**

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(Applicant) appeared before the board and at the IFF he shared his agreement with the board member's recommendation Mr Paulette recused himself and did not vote Upon a motion by Mr McDowell that was seconded by Mr Neff the Board adopted the recommendation and granted Mr Menefee his Class C Contractor's license The motion passed unanimously Those members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, Ms Parrish and Mr Redifer There were no negative votes

In the matter of File Number 2003-01574, **Quinton Dale Blackburn (Application for Class C Contractor's License) t/a Chester Roofing & Repair**, the board reviewed the record, which consisted of the licensing file, transcript and exhibits from the IFF, and the presiding board member's summary Quinton Dale Blackburn (Applicant) appeared at the meeting and the IFF and voiced his agreement with the recommendation Mr Paulette recused himself and did not vote Upon a motion by Mr Redifer and seconded by Mr Neff, the board accepted the hearing officer's recommendation and granted Mr Blackburn his Class C license The motion passed with a unanimous vote Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, Ms Parrish and Mr Redifer There were no negative votes

**Tab 6 (11)
File
2003-01574**

In the matter of File Number 2003-01576, **Kevin Dale Holzhauser (Application for Tradesman License)**, the board reviewed the record, which consisted of the licensing file, transcript and exhibits from the IFF, and the presiding board member's summary Kevin Dale Holzhauser (Applicant) appeared at the meeting and the IFF and voiced his agreement with the recommendation Mr Paulette recused himself and did not vote Ms Parrish asked Mr Holzhauser if he plead guilty or if he was tried and convicted? He responded that he was tried and convicted Upon a motion by Mr Falwell and seconded by Mr Neff, the board accepted the hearing officer's recommendation and granted Mr Holzhauser his Tradesman license The motion passed with a vote of "8 yes and 3 no" Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hollar, Mr Kinser, Mr Kirby, Mr Neff and Mr Redifer The no votes were cast by Mr Hart, Mr McDowell and Ms Parrish

**Tab 6 (12)
File
2003-01576**

In the matter of File Number 2003-01372, **Mary Rose Neighbors Application for Tradesman License Licensing File**, the board reviewed the record, which consisted of the licensing file, transcript, exhibits from the IFF, and the presiding board member's summary Mary Rose Neighbors (Applicant) appeared at the meeting and the IFF and voiced her agreement with the recommendation Mr Paulette recused himself and did not vote Upon a motion by Mr Burch and seconded by Mr Hart, the board accepted the hearing officer's recommendation and granted Ms Neighbors her Tradesman license The motion passed with a vote of "10 yes and 1 no" Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, Ms Parrish and Mr Redifer The no vote was cast by Mr Hollar

**Tab 6 (4)
File
2003-01372**

In the matter of File Number 2003-01373, **Nathan T. Lewis, Jr and Heriberto Colon, Jr. t/a Gophers Home Improvements Application for class C Contractor's License**, the board reviewed the licensing file, which consisted of the transcript, exhibits from the IFF, and the presiding board member's summary Nathan T Lewis and Heriberto Colon, Jr (Applicants) appeared at the meeting and the IFF and voiced their agreement with the recommendation Mr Paulette recused himself and did not vote Ms Parrish asked Mr Lewis if he plead guilty? He responded, "Yes based on advice from

**Tab 6 (5) File
2003-01373**

counsel and he served 3 of the 6 years, he also served 4 years probation and was released in 1998 from probation. Upon a motion by Mr. Neff and seconded by Mr. Falwell, the board accepted the hearing officer's recommendation and granted Mr. Colon and Mr. Lewis their Class C license. The motion passed with a vote of "9 yes and 2 no". Members voting "Yes" were Mr. Burch, Mr. Falwell, Mr. Harris, Mr. Hart, Mr. Hollar, Mr. Kinser, Mr. Kirby, Mr. Neff and Mr. Redifer. The no votes were cast by Mr. McDowell and Ms. Parrish.

In the matter of File Number 2003-03225, David Crigler t/a DBK Contractors, Disciplinary File, the board reviewed the record, which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding board member's summary. Mr. David Crigler appeared before the board and attended the IFF meeting. He voiced his disagreement with the recommendation. Mr. Kirby recused himself and did not vote. Mr. Hart asked Mr. Crigler why didn't he or his lawyer respond to the Board when contacted? Mr. Crigler indicated he talked to Ms. Whittaker and let her know he'd turned his case over to an attorney. Mr. Falwell noted there was no written documentation from Mr. Crigler's attorney to the Board. Upon a motion by Ms. Parrish, and seconded by Mr. Hart to amend the hearing officer's recommendations as listed. Count I, the Board found clear and convincing evidence that David Crigler violated the following sections of its 1999 Regulations 18 VAC 50-22-260(B)(6) and the Board imposes a monetary penalty of \$750.00. Based on the facts the Board amends the recommended revocation to no revocation as it relates to this case. Count II, the Board found clear and convincing evidence that David Crigler violated the following sections of its 1999 Regulations 18 VAC 50-22-260(B)(11) and the Board imposes a monetary penalty of \$1,000.00. Count III, the Board found clear and convincing evidence that David Crigler violated the following sections of its 1999 Regulations 18 VAC 50-22-230(A) and the Board imposes a monetary penalty of \$500.00. Count IV, the Board found clear and convincing evidence that David Crigler violated the following sections of its 1999 Regulations 18 VAC 50-22-230(B) and the Board imposes a monetary penalty of \$300.00. Failure to pay the assessed monetary penalties of \$2,550.00 within sixty days of the order date will result in automatic license suspension. The vote was unanimous. Members voting yes were Mr. Burch, Mr. Falwell, Mr. Harris, Mr. Hart, Mr. Hollar, Mr. Kinser, Mr. McDowell, Mr. Neff, Ms. Parrish, Mr. Paulette and Mr. Redifer. There were no negative votes.

Tab 6 (15)
File
2003-03225

In the matter of File Number 2002-00031, David Crigler t/a DBK Contractors, Disciplinary File, the board reviewed the record, which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding board member's summary. Mr. David Crigler appeared before the board and attended the IFF meeting. He addressed the Board. Mr. Kirby recused himself and did not vote. Upon a motion by Ms. Parrish, and seconded by Mr. Redifer. Count I, the Board found clear and convincing evidence that David Crigler violated the following sections of its 1999 Regulations 18 VAC 50-22-230(A), Count II, 18 VAC 50-22-260-B 8; Count III, 18 VAC 50-22-260(B)(12) (abandonment); Count IV 18 VAC 50-22-260(B)(12) (retention of funds); Count V 18 VAC 50-22-260(B)(12) (failure to respond to an investigator). The vote was unanimous. Members voting "yes" were Mr. Burch, Mr. Falwell, Mr. Harris, Mr. Hart, Mr. Hollar, Mr. Kinser, Mr. McDowell, Mr. Neff, Ms. Parrish, Mr. Paulette and Mr. Redifer. There were no negative votes. Upon a motion by Ms. Parrish and seconded by Mr. Redifer the Board adopted the hearing officer's recommendation with the following amendment for Count I the change of name being consistent; the Board proposes a finding of no fine for the same thing and imposed the following monetary penalties: Count II (\$350.); Count III (\$2,500.) and license revocation; Count IV (\$2,500.) and license revocation; Count V (\$1,000.) and license revocation. Failure to pay the

Tab 6 (16)
File
2002-00031

assessed monetary penalties of \$6, 350.00 within sixty days of the order date will result in automatic license suspension. The vote was unanimous. Members voting yes were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer. There were no negative votes.

In the matter of File Number 2002-00050, David Crigler t/a DBK Contractors, Disciplinary File, the board reviewed the record, which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding board member's summary. Mr David Crigler appeared before the board and attended the IFF meeting. He addressed the Board. Mr Kirby recused himself and did not vote. Upon a motion by Mr McDowell, and seconded by Ms Parrish, Count I, the Board found clear and convincing evidence that David Crigler violated the following sections of its 1999 Regulations: 18 VAC 50-22-260.B.8, Count II, 18 VAC 50-22-260-(B)(12) (abandonment), Count III, 18 VAC 50-22-260(B)(12) (retention of funds); Count IV 18 VAC 50-22-260(B)(12) (failure to respond to an investigator); Count V 18 VAC 50-22-230(B)(12). The vote was unanimous. Members voting "yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer. There were no negative votes. Upon a motion by Mr McDowell and seconded by Ms Parrish, the Board adopted the hearing officer's recommendation for Count I the contract language; the Board proposes a monetary penalty of \$350.00, Count II (\$2,500.) and license revocation; Count III (\$2,500.) and license revocation; Count IV (\$1,000) and license revocation; Count V (\$300.). Failure to pay the assessed monetary penalties of \$6, 650.00 within sixty days of the order date will result in automatic license suspension. The vote was unanimous. Members voting yes were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer. There were no negative votes.

Tab 6 (17)
File
2002-00050

In the matter of File Number 2002-00181, David Crigler t/a DBK Contractors, Disciplinary File, the board reviewed the record, which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding board member's summary. Mr David Crigler appeared before the board and attended the IFF meeting. He addressed the Board. Mr Kirby recused himself and did not vote. Upon a motion by Mr Paulette, and seconded by Mr Hart, Count I, the Board found clear and convincing evidence that David Crigler violated the following sections of its 1999 Regulations: 18 VAC 50-22-260.B.8, Count II, 18 VAC 50-22-260-(B)(12) (abandonment); Count III, 18 VAC 50-22-260(B)(12) (retention of funds); Count IV Crigler violated the Board's 2001 Regulation 18 VAC 50-22-260 (B) (12) (failure to respond to an investigator). The vote was unanimous. Members voting "yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer. There were no negative votes. Upon a motion by Mr Paulette and seconded by Mr Hart, the Board adopted the hearing officer's recommendation for Count I the contract language; the Board proposes a monetary penalty of \$350.00; Count II (\$2,500.) and license revocation; Count III (\$2,500) and license revocation; Count IV (\$1,000.) and license revocation. Failure to pay the assessed monetary penalties of \$6, 350.00 within sixty days of the order date will result in automatic license suspension. The vote was unanimous. Members voting yes were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer. There were no negative votes.

Tab 6 (18)
File
2002-00181

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In the matter of File Number 2002-01004, David Crigler t/a DBK Contractors, Disciplinary File, the board reviewed the record, which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding board member's summary Mr David Crigler appeared before the board and attended the IFF meeting He addressed the Board and read a letter to them Mr Kirby recused himself and did not vote Upon a motion by Mr Neff, and seconded by Mr McDowell The Board found clear and convincing evidence that David Crigler violated the following sections of its 1999 Regulations Count I, 18 VAC 50-22-260.B 8 the contract language, Count II, 18 VAC 50-22-260-(B)(12) (abandonment); Count III, 18 VAC 50-22-260(B)(12) (retention of funds), Count IV 18 VAC 50-22-260(B)(12) (failure to respond to an investigator). Crigler violated the Boards 2001 Regulation 18 VAC 50-22-260 (B) (12). The vote was unanimous Members voting "yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr McDowell There were no negative votes Upon a motion by Mr Neff and seconded by Mr Hart the Board adopted the hearing officer's recommendation for Count I, the Board proposes a monetary penalty of \$350.00, Count II (\$2,500.) and license revocation; Count III (\$2,500.) and license revocation; Count IV 2001 Regulation (\$1,000.) and license revocation; Count V (\$300.). Failure to pay the assessed monetary penalties of \$6, 650.00 within sixty days of the order date will result in automatic license suspension. The vote was unanimous Members voting yes were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer There were no negative votes

**Tab 6 (19)
File
2002-01004**

In the matter of File Number 2001-00266, Alexander M Toomy t/a MacMillian Pace, LLC Disciplinary File, the board reviewed the record, which consisted of the disciplinary file, transcript and exhibits from the IFF, and the presiding board member's summary Mr Toomy and Mr Parker, Esquire both attended the IFF Mr J Randolph Parker attended the Board meeting and shared his agreement with the recommendation Mr Kirby recused himself and did not vote Upon a motion by Mr Parrish seconded by Mr Falwell to accept the summary and recommendation by the hearing officer Since Mr Toomy has satisfied the judgment and paid the Contractor Board its \$1,000 fine The Board will not suspend nor revoke the license for a substantial identity of interest pursuant to §54 1-1110 of the Code of Virginia and the file is closed The motion passed unanimously Members voting "Yes" were, Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Mr Parrish, Mr Paulette and Mr Redifer There were no negative votes

**Tab 6 (14)
File
2001-00266**

In the matter of File Number 2003-01542, James Mark Mangialetti t/a Son Rock Construction Company Application for Class C Contractors License Licensing File, the board reviewed the record, which consisted of the licensing file, transcript, exhibits from the IFF, and the presiding board member's summary James Mark Mangialetti (Applicant) appeared at the meeting and the IFF and voiced his agreement with the recommendation Mr Paulette recused himself and did not vote Upon a motion by Mr McDowell and seconded by Mr Hart, the board accepted the hearing officer's recommendation and granted Mr Mangialetti's Class C Contractors' license The motion passed with a unanimous vote Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, Ms Parrish and Mr Redifer There were no negative votes

**Tab 6 (9) File
2003-01542**

In the matter of File Number 2000-01230, Leon Fairfax Berry, Jr. Application for

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Tradesman License, Licensing File the board reviewed the record, which consisted of the licensing file, transcript, exhibits from the IFF, and the presiding board member's summary Mr Paulette recused himself and did not vote Mr Berry (Applicant) appeared at the IFF but did not appear before the board Mr Berry was not represented by counsel nor any other qualified person Mr Falwell offered a motion to accept the recommendation of the hearing officer and grant Mr Berry his license Mr Harris seconded it The motion failed with a vote of "5 yes and 6 no" Members voting yes were Mr Falwell, Mr Harris, Mr Redifer, Mr Neff and Mr Hollar Members voting no were Ms Parrish, Mr Kinser, Mr Kirby, Mr McDowell, Mr Hart and Mr Burch Ms Parrish discussed the moral turpitude and recent assault and battery of Mr Berry Mr Kirby offered a motion to deny the issuance of the Tradesman license and overturn the hearing officer's recommendation Ms Parrish seconded the motion Members voting yes were Mr Burch, Mr Hart, Mr Kirby, Mr McDowell and Ms Parrish Members voting no were Mr Hollar, Mr Kinser, Mr Redifer, Mr Neff, Mr Harris and Mr Falwell The motion did not carry Ms Parrish offered a motion to deny the issuance of the license to Mr Berry based on his recent history of assault and battery and the question of moral turpitude The motion was seconded by Mr McDowell Members voting yes were Ms Parrish, Mr McDowell, Mr Hart, Mr Kinser, Mr Kirby, Mr Burch and Mr Redifer Those voting no were Mr Neff, Mr Falwell, Mr Harris and Mr Hollar The motion carried and the license was denied

**File
2000-01230**

In the matter of File Number 2003-01368, William Frederick Powell t/a Contracting Telecom Services Application for Class C Contractors License Licensing File, the board reviewed the record, which consisted of the licensing file, transcript, exhibits from the IFF, and the presiding board member's summary William Frederick Powell (Applicant) appeared at the IFF but he did not attend the Board meeting Mr Paulette recused himself and did not vote Upon a motion by Mr Redifer and seconded by Mr Neff, the board accepted the hearing officer's recommendation and granted Mr Powell's Class C Contractors' license The motion passed with a unanimous vote Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, Ms Parrish and Mr Redifer There were no negative votes

**Tab 6 (3)
File
2003-01368**

In the matter of File Number 2003-01445, James Edward Post, Sr. Application for Tradesman License Licensing File, the board reviewed the record, which consisted of the licensing file, transcript, exhibits from the IFF, and the presiding board member's summary James Edward Post (Applicant) appeared at the IFF but he did not attend the Board meeting Mr Paulette recused himself and did not vote Upon a motion by Ms Parrish and seconded by Mr McDowell, the board accepted the hearing officer's recommendation and denied Mr Post's Tradesmen license The motion passed with a unanimous vote Members voting "Yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, Ms Parrish and Mr Redifer There were no negative votes

**Tab 6 (6)
File
2003-01445**

In the matter of File Number 2000-02886, Board v Penny Curry t/a Best Way Paving Disciplinary File, the board reviewed the record, which consisted of the disciplinary file, transcript, exhibits from the IFF and the presiding board member's summary Penny Curry nor any other representative of the company made an appearance at the IFF nor the Board meeting in person or by counsel Mr Kirby, the hearing officer recused himself from the Board meeting and did not vote Upon a motion by Mr Redifer, seconded by Mr Hart, the board accepted the summary and recommendation to become a part of the final order The board found clear and convincing evidence that Penny Curry

**Tab 6 (13)
File
2000-02886**

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violated the following sections of its 1999 Regulations Count I, 18 VAC 50-22-260(B)(8) (failure to make use of a legible written contract that contains all provisions specified); Count II, 18 VAC 50-22-260-(B)(13) (Cost misrepresentation); The vote was unanimous Members voting "yes" were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette, and Mr Redifer There were no negative votes Upon a motion by Mr Redifer and seconded by Mr Burch the Board adopted the hearing officer's recommendation for Count I; the Board proposes a monetary penalty of \$350 00; Count II (\$1,500). Failure to pay the assessed monetary penalties of \$1, 850.00 within sixty days of the order date will result in automatic license suspension. The vote was unanimous Members voting yes were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer There were no negative votes

The Board had a break. Session resumed at 10:33 AM.

In the matter of File Number 2001-00885, Bowman Plumbing Heating & Electrical Inc, the board reviewed the Consent Order # 2003-0121 Bowman Plumbing Heating & Electrical Inc did not attend the Board meeting Mr Kirby recused himself and did not vote Upon a motion by Mr Redifer and seconded by Mr McDowell, the board ratified the consent order as follows. (Count I) for violation of the Board's 1999, Regulation, 18 VAC 50-22-260.B.8, (failure to make use of a legible written contract that contains all provisions specified in the regulation). (Count II) failure to use a written change order signed by all parties for additional work performed is a violation of the Board's 1999 Regulation 18 VAC 50-22-260(B)(6). Monetary penalties are imposed as follows. (Count I) \$300 00 and (Count II) \$150 00 As to Count I Douglas F Bowman agrees to revise his contract to comply with the Board's regulations and to submit a copy to the Board within thirty (30) days of the effective date of this order If Douglas F Bowman complies, then the monetary penalty will be reduced to \$150 00 Douglas F Bowman acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of Bowman Plumbing Heating & Electrical Inc license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer There were no negative votes

**Tab 7 (4)
File
2001-00885**

In the matter of File Number 2000-00428, Herbert L. Johnson Sr t/a Johnson Home Remodeling the board reviewed the Consent Order # 2003-0120 Johnson Home Remodeling did not attend the Board meeting Mr Kirby recused himself and did not vote Upon a motion by Ms Parrish and seconded by Mr McDowell, the board ratified the consent order as follows: (Count I) for violation of the Board's 1995, Regulation, §5 4 A., (failure to operate under the name in which the license was issued). (Count II) violation of the Board's 1995, Regulation, §5.7.B.8. failure to make use of a legible written contract that contains all provisions specified in the regulation. Monetary penalties are imposed as follows: (Count I) \$500.00 and (Count II) \$300.00. As to Count I Herbert L Johnson Sr agrees to make the necessary corrections to his licensing record to come into compliance with the Board's regulation and conduct business in the name in which his license is issued If Herbert L Johnson Sr complies, then the monetary penalty will be reduced to \$150 00 As to Count I and Count II Mr Johnson agrees to complete the Board's Basic Contracting Licensing Class (remedial education) within six (6) months of the entry of the consent order Herbert L Johnson Sr acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic

**Tab 7 (1)
File
2000-00428**

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suspension of Herbert L Johnson Sr 's license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer There were no negative votes

In the matter of File Number 2000-03705, Traditional Homes Of Albemarle Ltd t/a Traditional Homes Of Albemarle Ltd the board reviewed the Consent Order # 2003-0110 Traditional Homes Of Albemarle Ltd did not attend the Board meeting Upon a motion by Ms Parrish and seconded by Mr McDowell, the board ratified the consent order as follows. (Count I) for violation of the Board's 1999, Regulations, 18 VAC 50-22-260 (B) (14), (Filing of Charges; prohibited acts). Monetary penalty imposed as follows. (Count I) \$1,000.00. As to Count I Traditional Homes Of Albemarle Ltd acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of Traditional Homes Of Albemarle Ltd's license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette, Mr Kirby and Mr Redifer There were no negative votes

**Tab 7 (3)
File
2000-03705**

In the matter of File Number 2001-01896, Westhampton Builders Inc. t/a Westhampton Builders Inc the board reviewed the Consent Order # 2003-0094 Westhampton Builders Inc did not attend the Board meeting Upon a motion by Ms Parrish and seconded by Mr McDowell, the board ratified the consent order as follows: (Count I) for violation of the Board's 1999, Regulations, 18 VAC 50-22-260 (B) (8), (Filing of Charges; prohibited acts). Monetary penalty imposed as follows: (Count I) \$500.00 and mandatory completion of Remedial Education. The Basic Contractors Licensing Course must be successfully completed within six (6) months of the entry of this consent order. As to Count I Westhampton Builders Inc acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of Westhampton Builders Inc.'s license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette, Mr Kirby and Mr Redifer There were no negative votes

**Tab 7(5)
File
2001-01896**

In the matter of File Number 2001-02542, K M Cash Construction Corp. t/a K M Cash Construction Corp the board reviewed the Consent Order # 2003-0095 K M Cash Construction Corp did not attend the Board meeting Upon a motion by Ms Parrish and seconded by Mr McDowell, the board ratified the consent order as follows: (Count I) for violation of the Board's 1999, Regulations, 18 VAC 50-22-260 (B) (8), (Filing of Charges; prohibited acts) Monetary penalty imposed as follows: (Count I) \$150.00 and mandatory completion of Remedial Education. The Basic Contractors Licensing Course must be successfully completed within six (6) months of the entry of this consent order As to Count I K M Cash Construction Corp acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of K M Cash Construction Corp's license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette, Mr Kirby and Mr Redifer There were no negative votes

**Tab 7 (6)
File
2001-02542**

In the matter of File Number 2002-00079, Blacktop Contracting Inc, the board reviewed the Consent Order # 2003-0113 Blacktop Contracting Inc did not attend the

**Tab 7 (7)
File**

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Board meeting Mr Kirby recused himself and did not vote Upon a motion by Ms Parrish and seconded by Mr McDowell, the board ratified the consent order as follows. (Count I) for violation of the Board's 1999, Regulations, 18 VAC 50-22-230. (A), (failure to operate in the name in which the license was issued). (Count II) violation of the Board's 1999 Regulation 18 VAC 50-22-210(3). (failure to notify the Board of the dissolution of the corporation, requiring a new license) (Count III) for violation of the Board's 1999 regulation 18 VAC 50-22-260(B) (6), (failure to respond to make corrections after promising to do so). (Count IV) violation of the Board's 1999 regulation 18 VAC 50-22-260(B) (12). (retention of funds). (Count V) violation of the Board's 1999 regulation 18 VAC 50-22-260(B) (11). (failure or refusal, upon request or demand, to respond to an investigator seeking information in a complaint filed with the Board). (Count VI) violation of the Board's 1999 regulation 18 VAC 50-22-260(B) (8). (failure to make use of a legible contract that contains all provisions specified in the regulation). Monetary penalties are imposed as follows: (Count I, II, III, IV, V and VI) a total of \$1,000.00 and Joseph Brooks agrees to satisfy the judgment obtained by Lance and Lorri Kitchens in the amount of \$1,000.00. Brooks agrees to provide proof of satisfaction to the Board within thirty (30) days of the effective date of this consent order Blacktop Contracting Inc acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of Blacktop Contracting Inc's license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer There were no negative votes

2002-00079

In the matter of File Number 2002-01124, Gary R Stone t/a My Design the board reviewed the Consent Order # 2003-0091 My Design did not attend the Board meeting Upon a motion by Ms Parrish and seconded by Mr McDowell, the board ratified the consent order as follows: (Count I) for violation of the Board's 1999, Regulation, 18 VAC 50-22-260(B) (1), to wit: 54 1-1103 of the Code of Virginia (contracting without the required license). (Count II) violation of the Board's 1999, Regulation, 18 VAC 50-22-260(B) (8). (filing of charges prohibited acts) Monetary penalties are imposed as follows: (Count I) \$500.00 and (Count II) \$150.00. As to Count I and Count II Mr Stone agrees to complete the Board's Basic Contracting Licensing Class (remedial education) within six (6) months of the entry of the consent order Gary R Stone acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of Gary R Stone's license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer There were no negative votes

Tab 7 (8)

File

2002-01124

In the matter of File Number 2002-01542, Dominion Building Specialties Inc, the board reviewed the Consent Order # 2003-0123 Dominion Building Specialties Inc did not attend the Board meeting Mr Kirby recused himself and did not vote Upon a motion by Mr Redifer and seconded by Mr McDowell, the board ratified the consent order as follows: (Count I) for violation of the Board's 1999, Regulation, 18 VAC 50-22-260. (B). (8), (failure to make use of a legible written contract that contains all provisions specified in the regulation). (Count II) (failure to hold the Cundiffs' \$3,000. in escrow as specified by the terms of the contract does violate the misapplication of funds provision) of the Board's 1999 Regulation 18 VAC 50-22-260(B) (12). Monetary penalties are imposed as follows: (Count I) \$350.00 and (Count II) \$1, 00.00 and voluntary revocation of Dominion Building Specialties Ink's license # 2705-018412. Dominion Building Specialties acknowledges that failure

Tab 7 (9)

File

2002-01542

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to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of Dominion Building Specialties Inc license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette and Mr Redifer There were no negative votes

In the matter of File Number 2002-03767, Vernon A Baugh. the board reviewed the Consent Order # 2003-0106 Vernon A Baugh did not attend the Board meeting Upon a motion by Ms Parrish and seconded by Mr McDowell, the board ratified the consent order as follows: (Count I) for violation of the Board's 1999, Regulations, 18 VAC 50-30-190(1), (prohibited acts). Monetary penalty imposed as follows (Count I) \$500.00. As to Count I Vernon A Baugh acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of Vernon A Baugh's license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette, Mr Kirby and Mr Redifer There were no negative votes

**Tab 7 (10)
File
2002-03767**

In the matter of File Number 2003-00826, Bill D Clement, t/a Remodeling West the board reviewed the Consent Order # 2003-0105 Bill D Clement did not attend the Board meeting Upon a motion by Ms Parrish and seconded by Mr McDowell, the board ratified the consent order as follows: (Count I) for violation of the Board's 2001, Regulations, 18 VAC 50-22-260(B) (19), (Filing of charges, prohibited acts). Monetary penalty imposed as follows: (Count I) \$250.00 As to Count I Bill D Clement acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of Bill D Clement's license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette, Mr Kirby and Mr Redifer There were no negative votes

**Tab 7 (11)
File
2003-00826**

In the matter of File Number 2001-01376, Morris Construction Ltd, t/a Remodeling West the board reviewed the Consent Order # 2003-0057 Morris Construction Ltd did not attend the Board meeting Upon a motion by Ms Parrish and seconded by Mr McDowell, the board ratified the consent order as follows: (Count I) for violation of the Board's 2001, Regulations, 18 VAC 50-22-260(B) (18), (Filing of charges, prohibited acts). Monetary penalty imposed as follows: (Count I) \$1,000 00. As to Count I Morris Construction Ltd acknowledges that failure to pay the penalty, the costs, or to comply with all terms of the Consent Order within the specified time period, shall result in the automatic suspension of Morris Construction Ltd's license until all terms are met The motion passed unanimously Members voting "Yes" were Mr Burch, Mr Falwell, Mr Hart, Mr Harris, Mr Hollar, Mr Kinser, Mr McDowell, Mr Neff, Ms Parrish, Mr Paulette, Mr Kirby and Mr Redifer There were no negative votes

**Tab 7 (13)
File
2001-01376**

The Board had lunch while working.

The Board Members adopted the Tradesman & Education Committee Meeting Minutes

Tab 8 (a)

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A motion was made by Mr Kirby and seconded by Mr Burch to adopt the Tradesman & Education Committee Meeting Minutes. The vote was unanimous. Members voting "Yes" were Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Burch, Mr Kirby, Mr Kinser, Mr Paulette, Ms Parrish, Mr Neff, Mr McDowell and Mr Redifer. There were no negative votes.

Tradesman
Minutes

Eric Olson, Executive Director, Board for Contractors discussed the Legislative Review Process and updated the Board on the status of the House Bills that are relative to the Board. The veto session will not be over until April 2003. At that time we'll know which new laws will go into effect July 1, 2003 and we'll be able to make a more reasonable determination of their affect on our consumer participation group and on our Regulatory Boards. No action was required by the Board.

Tab 8 (b)
Final
Legislative
Report

Tab 8 (c)
Remedial
Education
Report

Eric Olson, Executive Director, Board for Contractors provided information on the speaking engagements he and his staff have attended on behalf of the Contractors Board and those that have been scheduled for future dates. He briefed the Board members on the types of questions the public, the contractors and the tradesman in attendance at the seminars and meetings have asked of him.

Tab 8 (d)
Staff
Travelogue
Eric Olson

Eric Olson, Executive Director, Board for Contractors updated the status of reciprocal agreements with West Virginia and Georgia. Mr Hollar requested the staff continue to approach Maryland and invite them to negotiate an agreement.

Tab 8 (e)
Reciprocal
Agreement
Update

Eric Olson, Executive Director, Board for Contractors reminded the Board members they have copies of the Recovery Fund reports for December of 2002 and January 2003 in their handouts for their review.

Tab 8 (f)
Recovery
Fund
Statements
Eric Olson

Steve Arthur, Deputy Director, gave the Board members a presentation. The current fees are not providing enough revenue to pay the expenditures of the Board. The Board is processing work at three times the rate of the past. The Callahan Act requires that the fees collected cover the expenses. A report is generated quarterly to review the requirement. We are currently approximately 1/2 million in the red just on the Enforcement charges. 30% of the cost increase is attributed to the Enforcement usage. Mr McDowell offered a motion to investigate a potential cost increase. Ms Parrish seconded the motion. Eric Olson, Executive Director, Board for Contractors explained the Regulatory Review Process. The vote was unanimous. Members voting yes were Mr Burch, Mr Falwell, Mr Harris, Mr Hart, Mr Hollar, Mr Kinser, Mr Kirby, Mr McDowell, Ms Parrish, Mr Paulette and Mr Redifer. There were no negative votes.

Tab 8 (g)
Financial
Information
Fee Increase
Steve Arthur
Deputy
Director/Fina
nce &
Administrati
on

Jim Guffey, Deputy Director for Enforcement and Bonnie Rhea Adams, Assistant Director, Post Adjudication gave a presentation regarding the Department of Professional and Occupational Regulation structure. Mr Guffey provided the case with information pertaining to the enforcement process of cases and he shared information regarding the Informal Fact Finding process. At the end of the Board meeting Mr Guffey, Ms Rhea Adams and other enforcement/post adjudication staff presented a "mock training" IFF.

Tab 8 (h)
Board
Member
Training
Jim Guffey
Deputy

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case for the Board members to actively participate in

Director for
Enforcement

Eric Olson, Executive Director, Board for Contractors shared information with the Board members on tax issues. He explained that the IRS, the VEC and the Board for Contractors will be mailing Contractors and information packet to assist them with correctly complying with the required tax laws as it relates to the agencies involved. The IRS will provide the funding for this mailing. The information is still being compiled and a definite mailing date has not been determined as of this meeting date. No action required by the Board.

Tab 8 (h)
Board
Member
Training
Eric Olson

Chairman Kinser reminded the board members to complete their travel vouchers and Conflict of Interest forms and to give them to Sheila Watkins at the end of the meeting for processing.

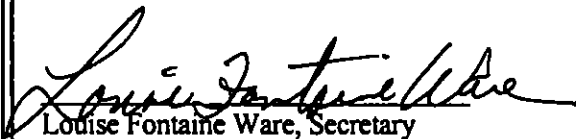
Tab 9 –
Travel
Vouchers/
Conflict of
Interest
Forms

There being no further business to come before the board, the meeting was adjourned upon a motion by Mr. Redifer and seconded by Mr. Hart. The vote was unanimous. Members voting yes were, Mr. Burch, Mr. Falwell, Mr. Harris, Mr. Hart, Mr. Hollar, Mr. Kirby, Mr. Kinser, Mr. McDowell, Ms. Parrish, Mr. Neff, Mr. Paulette and Mr. Redifer at 1:45 p.m.

Tab 10 –
Adjournment



Mark D. Kinser, Chairman



Louise Fontaine Ware, Secretary

Copy teste:

Custodian of the Record